

109TH CONGRESS
2D SESSION

S. CON. RES. 88

Urging the Government of China to reinstate all licenses of Gao Zhisheng and his law firm, remove all legal and political obstacles for lawyers attempting to defend criminal cases in China, including politically sensitive cases, and revise law and practice in China so that it conforms to international standards.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. FEINGOLD (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

CONCURRENT RESOLUTION

Urging the Government of China to reinstate all licenses of Gao Zhisheng and his law firm, remove all legal and political obstacles for lawyers attempting to defend criminal cases in China, including politically sensitive cases, and revise law and practice in China so that it conforms to international standards.

Whereas, since November 2005, the Beijing Judicial Bureau has shut down the law firm and suspended the license of Mr. Gao Zhisheng, one of China's best known lawyers and legal rights defenders;

Whereas Mr. Gao has represented citizens of China in lawsuits against various local and administrative govern-

mental bodies of the People's Republic of China over corruption, land seizures, police abuse, and violations of religious freedom;

Whereas Mr. Gao wrote 3 open letters to President Hu Jintao and Premier Wen Jiabao condemning the methods employed by the Government of China in implementing its ban on "evil cults", such as the Falun Gong and an additional letter documenting severe persecution of Christians in Xinjiang Uighur Autonomous Region;

Whereas Mr. Gao's law practice filed a petition to appeal the verdict against Cai Zhuohua, who was found guilty of "illegal business practices" based upon his distribution of Bibles and religious material;

Whereas Mr. Gao's home has been constantly monitored by agents from the Ministry of State Security and Mr. Gao was prevented by the Public Security Ministry from meeting with the representatives of the United Nations Special Rapporteur on Torture during his November 2005 visit to Beijing;

Whereas agents of the Public Security Bureau of China, numbering between 10 and 20, have consistently monitored the activities and whereabouts of Mr. Gao, his wife, and his daughter since late November 2005;

Whereas, on November 10, 2005, an open letter, signed by 138 organizations worldwide, was submitted to President Bush calling on him to voice support of Mr. Gao and his legal practice during the President's November 2005 visit to China;

Whereas other human rights lawyers, collectively known as "rights defenders", or Wei Quan, have also faced harassment, arrest, and detention for their consistent and vig-

orous activities to defend the fundamental rights of the people of China, contrary to measures within the law of China protecting human rights and rights of lawyers;

Whereas Mr. Chen Guangcheng, a blind human rights lawyer who has exposed cases of violence against women, including forced abortion and forced sterilization perpetrated by authorities of China under the 1-child policy, was beaten on October 10, 2005, and currently remains under house arrest;

Whereas law professor and People's Political Consultative Congress Delegate, Xu Zhiyong, who advocates on behalf of petitioners filing grievances with the Central government in Beijing, was also beaten on October 10, 2005, when meeting with Chen Guangcheng;

Whereas Mr. Yang Maodong (also known as Guo Feixiong), a lawyer representing villagers in Taishi village who attempted to oust their village head in peaceful elections, has been arbitrarily detained repeatedly and remains under consistent surveillance by security agents;

Whereas Mr. Tang Jingling, a Guangdong based lawyer also working on the Taishi village elections case, has been fired from his law firm and was beaten on February 2, 2006, after attempting to meet with Yang Maodong;

Whereas, according to the Department of State 2005 Country Reports on Human Rights Practices, lawyers who aggressively tried to defend their clients continued to face serious intimidation and abuse by police and prosecutors, and some of these lawyers were detained;

Whereas the Constitution of China states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative

organs, social organizations, and individuals, but in practice, the judiciary is not independent and it receives policy guidance from both the Government of China and the Communist Party, whose leaders use a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases;

Whereas the Criminal Procedure Law of China gives suspects the right to seek legal counsel, but defendants in politically sensitive cases frequently find it difficult to find an attorney;

Whereas the Lawyers Law of the People's Republic of China states that a lawyer may "accept engagement by a criminal suspect in a criminal case to provide him with legal advice and represent him in filing a petition or charge or obtaining a guarantor pending trial";

Whereas according to Article 306 of the Criminal Law of China, defense attorneys can be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury;

Whereas according to the All-China Lawyers Association, since 1997 more than 500 defense attorneys have been detained on similar charges, and such cases continued during the last year despite promises made by the Government of China to amend Article 306;

Whereas the State Department's 2005 Annual Report on Human Rights states that China's human rights record "remained poor", that authorities of China quickly moved to suppress those who openly expressed dissenting political views, and that writers, religious activists, dissidents,

lawyers, and petitioners to the Central Government were particularly targeted;

Whereas directly following their August 2005 visit to China, the United States Commission on International Religious Freedom found that—

(1) the Government of China actively seeks to control and suppress the activities of unregistered religious organizations;

(2) China has outlawed unregistered religious organizations and provides severe penalties for engaging in unregistered religious activities;

(3) leaders of unregistered Protestant organizations have come under increased pressure to register their churches and affiliate with one of the government approved organizations, and those who refuse, for theological or other reasons, are subject to harassment, detention, arrest, and closing of their religious facilities;

(4) groups determined by the Government of China to be “evil cults”, such as Falun Gong, are brutally suppressed; and

(5) practitioners of Falun Gong have experienced severe persecution, including arrests, numerous detentions, torture, irregular trials, imprisonment, and subjection to the reeducation through labor system, whereby accused criminals are subject to up to 3 years detention;

Whereas despite questions raised by the Government of the United States and others about the charges made against Pastor Cai Zhuohua, the Government of China sentenced Pastor Cai and other members of his family to 3 years in prison for “illegal business practices” for their printing and distribution of religious materials;

Whereas, according to China’s Regulations on Religious Affairs, promulgated in March 2005, any religious organization that carries out activities without registering with the government is subject to civil punishment and to criminal prosecution;

Whereas since the promulgation of the Regulations on Religious Affairs, the Government of China has stepped up its efforts to eliminate unregistered religious activity, with raids on “house church” Christian groups in several provinces, resulting in detention of hundreds of leaders of the house church, dozens of whom remain in custody; and

Whereas the Government of China has, on several occasions, stated a commitment to ratify the International Covenant on Civil and Political Rights, but has delayed ratification since signing the document in 1998: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring), That—*

3 (1) Congress—

4 (A) commends “rights defense” lawyers
5 and activists of China for their courage and in-
6 tegrity, and expresses moral support for this
7 grass-roots “rights defense” movement in
8 China;

9 (B) urges the Government of the People’s
10 Republic of China, at all levels, to cease its har-
11 assment of Mr. Gao Zhisheng, overturn the sus-
12 pension of his license to practice law, and re-

1 store his legal right to represent the clients of
2 his choosing as protected by China's own Con-
3 stitution, its Criminal Procedure Law, and its
4 Lawyers Law;

5 (C) urges the Government of the People's
6 Republic of China to repeal Article 306 of the
7 Criminal Code of China, which provides pen-
8 alties for lawyers whose clients are accused of
9 perjury and has been used to curtail the active
10 legal defense of individuals accused of political
11 crimes;

12 (D) urges the Government of the People's
13 Republic of China to undertake measures to
14 further amend the Lawyers Law to ensure law-
15 yers' rights to investigate charges brought
16 against their clients, to provide a vigorous de-
17 fense of their clients, and to remain free of har-
18 assment and intimidation throughout the course
19 of representing clients, including clients who are
20 charged with offenses related to political or reli-
21 gious activities;

22 (E) urges the Government of the People's
23 Republic of China to respect fully the uni-
24 versality of the right to freedom of religion or
25 belief and other human rights;

1 (F) urges the Government of the People's
2 Republic of China to ratify and implement in
3 law the International Covenant on Civil and Po-
4 litical Rights, and to adopt such legislative or
5 other measures as may be necessary to give ef-
6 fect to the rights recognized in the Covenant;

7 (G) urges the Government of the People's
8 Republic of China to amend or repeal Article
9 300 of the Criminal Code of China so it is con-
10 sistent with international law, and to halt its
11 crackdown on spiritual movements;

12 (H) urges the Government of the People's
13 Republic of China to halt arrests, harassment,
14 and intimidation of leaders of unregistered reli-
15 gious organizations on the basis that their orga-
16 nizations violated the law by not registering
17 with the Government of China;

18 (I) urges the Government of the People's
19 Republic of China to Amend the Regulations on
20 Religious Affairs to conform more closely with
21 the internationally recognized freedom of
22 thought, conscience, religion or belief and allow
23 all religious believers in China to practice their
24 religion without interference from the govern-

1 ment or from government sponsored “patriotic
2 religious associations”;

3 (J) urges the Government of the People’s
4 Republic of China to release Pastor Cai
5 Zhuohua, his wife, and others imprisoned with
6 him, and to allow Pastor Cai to resume reli-
7 gious activities and to resume leadership of his
8 congregation in Beijing; and

9 (K) urges the Government of the People’s
10 Republic of China to invite the Special
11 Rapporteur of the Commission on Human
12 Rights on freedom of religion or belief to China
13 as promised according to an agreement between
14 the Ministry of Foreign Affairs of China and
15 the Department of State of China in March
16 2005; and

17 (2) it is the sense of Congress that—

18 (A) the Government of the United States
19 should support democracy and human rights
20 programs that strengthen protection of basic
21 rights and freedoms, and should initiate pro-
22 grams to train lawyers, judges, academics, and
23 students in China about international human
24 rights law, to inform citizens of China about
25 international human rights norms, and to build

1 organizations and associations to promote these
2 priorities;

3 (B) the Government of the United States
4 should support programs to promote legal pro-
5 tectations and cultural awareness of the right to
6 the freedom of religion or belief in China; and

7 (C) the President should raise the issue of
8 the Government of China's harassment, arrest,
9 detention, and persecution of rights defense
10 lawyers and activists and the need for the Gov-
11 ernment of China to respect the basic human
12 rights of its citizens and the rule of law with
13 Chinese President Hu Jintao.

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